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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,328	12/14/2001	Mario Tenuta	2527-1A1	1143

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CANADA

EXAMINER

NAFF, DAVID M

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

19/017328

Applicant(s)

Tenua eh

Examiner

Haff

Group Art Unit

1651

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## P r i d f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 12/14/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-4 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☐ Claim(s) is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☒ Claim(s) 1-4 are subject to restriction or election requirement.

## Applicati n Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

***Election/Restriction***

Claims in the application are 1-4.

Restriction to one of the following inventions is required under

5 35 U.S.C. 121:

I. Claim 1, drawn to a method of determining an effective method for control of soil pathogens by measuring pH, organic carbon content and buffering capacity of the soil, adding a nitrogen-containing material and a pH reducing agent to reduce the soil pH below 5.5 when the soil has a buffering capacity below 2  $\mu$ L  $H_2SO_4$  g/soil, and adding a nitrogen-containing material and a pH raising agent to raise the soil pH above 8.5 when the organic carbon content is less than 1.7% by weight, classified in class 435, subclass 29.

15 II. Claims 2-4, drawn to a method of controlling pathogens in a soil having an organic carbon content less than 1.7% by weight by adding a nitrogen-containing material and a pH raising agent to raise the soil pH above 8.5, classified in class 424, subclass 543.

20 The inventions are distinct, each from the other because:

The methods of Groups I and II each require different steps, and the method of each group can be carried out in the absence of the method of the other group. The method of Group I does not require controlling pathogens in soil by steps as required by the method of Group II, and the method of Group II does not require steps of determining an effective

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method for control of soil pathogens as required by the method of Group I.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their  
5 different classification, restriction for examination purposes as indicated is proper.

Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

10 Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37  
15 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is (703) 308-0520. The examiner can normally be reached on Monday-Thursday and every other Friday from about 8:30 AM to about 6:00  
20 PM.

If attempts to reach the examiner by telephone are unsuccessful, a message can be left on voice mail.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn, can be reached at telephone number  
25 (703) 308-4743.

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The fax phone number is (703) 872-9306 before final rejection or  
(703) 872-9307 after final rejection.

Any inquiry of a general nature or relating to the status of this  
application or proceeding should be directed to the Group receptionist  
5 whose telephone number is (703) 308-0196.

  
DAVID M. NAFF  
PRIMARY EXAMINER  
ART UNIT 128/51

10 DMN  
4/1/03